IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3508 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

RAMKRUSHNA GATANNI HUF THRO' KARTA SHARAD R GATANI

Appearance:

MR KIRIT I PATEL and Ms. Amita Shah for Appellant

MR VC DESAI for Respondent

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE J.R.VORA

Date of decision: 20/02/2001

ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. This Appeal was admitted by a common order separately passed along with other cognate matters. This First Appeal u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949 is directed against the order dated 13th April, 2000, passed by the Judge, Court No.13, Small Causes Court at Ahmedabad, in Municipal Valuation Appeal No. 2305 of 1998 in respect of premises situated in Ward Ellisbridge-A1, bearing Survey No. 322-3-1101 for the Assessment Year1997-98.

2. The Small Causes Court while deciding the Municipal Valuation Appeal had considered that the assessee had produced the municipal tax bill for the year 1997-98 to show that initially the Corporation had proposed the GRV at Rs. 40,582/- but then the Corporation had revised its order and fixed the GRV at Rs. 27,670/- as per the tax bill. The appellant assessee in the Municipal Valuation Appeal has also produced a certificate issued by Director of Labh Properties Pvt. Ltd. stating that the appellant has been allotted premises No. 1101 on 11th Floor admeasuring about 825 sq. feet (super built up) in their complex known as Samundra Annexe i.e. the scheme situated at Final Plot No.322/2 of Sub Plot No. 2 , at a cost of Rs. 2,26,875/-. The appellant has also produced copy of the receipt of payment of municipal tax. The Small Causes Court set aside the assessment made by the Municipal Corporation in view of the cost shown in the certificate issued by the Director of Labh Properties Pvt. Ltd. Mr. Desai, learned advocate appeared on behalf of the respondent herein has stated that the valuer had not been examined and the Municipal Corporation did not get the opportunity to cross-examine the valuer. Whereas the matter is required to be remanded on this ground alone, we do not find it necessary to go into the other points raised by the appellant in this Appeal and it will be open for the appellant to raise the rest of the points in Appeal, if need be. It may also be made clear that it will also be open for the Municipal Corporation to make a proper application before the Small Causes Court u/s 409 of the Bombay Municipal Corporation Act, 1949 and in case the court feels satisfied, it may pass appropriate orders on such application with regard to the examination of the expert in the remanded proceedings. In the remanded proceedings, the Small Causes Court while considering the Appeal shall also take into consideration the fact that the GRV had been revised by the Municipal Corporation itself.

3. In this view of the matter, the impugned order dated 13th April, 2000 is hereby quashed and set aside. The matter is remanded to the Small Causes Court for deciding the Municipal Valuation Appeal in question afresh in accordance with law. Appeal is partly allowed as above with no order as to costs. It is expected that the Small Causes Court shall give priority to this Municipal Valuation Appeal and shall decide the same preferably within a period of six months from the date the certified copy of this order is produced before the Court by either of the parties. It is given out that while condoning the delay in filing this Appeal, this Court had awarded the costs. Any amount of cost if due shall be paid before the commencement of the remanded proceedings by the appellant Municipal Corporation.

(M.R. Calla, J.) (J.R. Vora, J.)